

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPH P. FELL, MARY JO MEYER, PAUL J. DATTA,
SUZANNE M. SCHMOKER, AMY L. FLETCHER, and DAVID A. FELL

MAILED

JAN - 9 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application No. 09/215,951

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on December 10, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

According to the amendment (Paper No. 10) filed September 29, 2000, it is not clear whether the appeal brief (Paper No. 29) filed June 23, 2003, is defective, for there is no similarity of claims 8-12, 14-18 and 50 in the appendix to the brief (Paper No.

Application No. 09/215,951

29) and the amendment (Paper No. 10) pursuant to 37 CFR § 1.192(c)(9).

In the amendment, the words in brackets were included in the appendix to the brief of claims 8-12, 14-18 and 50.

Also, on December 27, 2000, appellants filed an Information Disclosure Statement (IDS) (Paper No. 12). It is not clear from the record whether the examiner considered the IDS submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) correction to the appendix to the brief (Paper No. 29) or to the amendment (Paper No. 10) of claims 8-12, 14-18 and 50; 2) if claims 8-12, 14-18 and 50 in the appeal brief is inaccurate, notification to appellants that the appeal brief filed June 23, 2003, is defective; 3) notification to appellants to correct the defective brief; 4) consideration of the Information Disclosure Statement (Paper No. 12); 5) appropriate notification by the examiner to appellants of such consideration; and 6) for such further action as may be appropriate.

Application No. 09/215,951

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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